



# भारत का राजपत्र

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Separate paging is given to this Part in order that it may be filed  
as a separate compilation

### MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 6th August, 1975/Sravana 15, 1897 (Saka)

The following Act of Parliament received the assent of the President on the 6th August, 1975, and is hereby published for general information:—

### THE ELECTION LAWS (AMENDMENT) ACT, 1975

NO. 40 OF 1975

[6th August, 1975]

An Act further to amend the Representation of the People Act, 1951 and the Indian Penal Code.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Election Laws (Amendment) Act, 1975.

43 of 1951. 2. In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), for section 8A, the following section shall be substituted, namely:—

“8A. (1) The case of every person found guilty of a corrupt practice by an order under section 99 shall be submitted, as soon as may be, after such order takes effect, by such authority as the Central Government may specify in this behalf, to the President for determination of the question as to whether such person shall be disqualified and if so, for what period:

Provided that the period for which any person may be disqualified under this sub-section shall in no case exceed six years from the

Short title.

Substitution of new section for section 8A.

Disqualification on ground of corrupt practices.

date on which the order made in relation to him under section 99 takes effect.

(2) Any person who stands disqualified under section 8A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975, may, if the period of such disqualification has not expired, submit a petition to the President for the removal of such disqualification for the unexpired portion of the said period.

(3) Before giving his decision on any question mentioned in sub-section (1) or on any petition submitted under sub-section (2), the President shall obtain the opinion of the Election Commission on such question or petition and shall act according to such opinion.”.

**Amend-  
ment of  
section 11.** 3. In section 11 of the principal Act, after the words “under this Chapter”, the brackets, words, figure and letter “(except under section 8A)” shall be inserted.

**Amend-  
ment of  
section  
11A.** 4. Section 11A of the principal Act shall be re-numbered as sub-section (1) thereof and—

(a) in the sub-section as so re-numbered, clause (b) shall be omitted; and

(b) after the sub-section as so re-numbered, the following sub-sections shall be inserted, namely:—

“(2) Any person disqualified by a decision of the President under sub-section (1) of section 8A for any period shall be disqualified for the same period for voting at any election.

(3) The decision of the President on a petition submitted by any person under sub-section (2) of section 8A in respect of any disqualification for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State shall, so far as may be, apply in respect of the disqualification for voting at any election incurred by him under clause (b) of sub-section (1) of section 11A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975, as if such decision were a decision in respect of the said disqualification for voting also.”.

**Amend-  
ment of  
section  
11B.** 5. In section 11B of the principal Act, for the words “any disqualification under this Chapter”, the words, brackets, figures and letter “any disqualification under sub-section (1) of section 11A” shall be substituted.

**Amend-  
ment of  
section  
77.** 6. In section 77 of the principal Act, in sub-section (1),—

(a) for the words “the date of publication of the notification calling the election”, the words “the date on which he has been nominated” shall be substituted;

(b) after *Explanation 2*, the following *Explanation* shall be inserted, namely:—

“*Explanation 3.*—For the removal of doubt, it is hereby declared that any expenditure incurred in respect of any arrangements made, facilities provided or any other act or thing done by

any person in the service of the Government and belonging to any of the classes mentioned in clause (7) of section 123 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorized by a candidate or by his election agent for the purposes of this sub-section.”.

7. In section 79 of the principal Act, for clause (b), the following clause shall be substituted, namely:—

‘(b) “candidate” means a person who has been or claims to have been duly nominated as a candidate at any election;’.

8. In section 123 of the principal Act,—

(a) in clause (3), the following proviso shall be inserted at the end, namely:—

“Provided that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.”;

(b) in clause (7), the following proviso shall be inserted at the end, namely:—

“Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his election agent, (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate’s election.”;

(c) in the *Explanation* at the end, the following shall be added, namely:—

“(3) For the purposes of clause (7), notwithstanding anything contained in any other law, the publication in the Official Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Central Government (including a person serving in connection with the administration of a Union territory) or of a State Government shall be conclusive proof—

(i) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, and

(ii) where the date of taking effect of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, is stated in such publication, also of the fact that such person was appointed with effect from the said date, or in the case of resignation, termination of service, dismissal or removal from service, such person ceased to be in such service with effect from the said date.”.

Amend-  
ment of  
section  
79.

Amend-  
ment of  
section  
123.

Amend-  
ment of  
section  
171A of  
Act 45  
of 1860.

Amend-  
ments to  
have  
retrospec-  
tive effect.

9. In the Indian Penal Code, in section 171A, for clause (a), the following clause shall be substituted, namely:—

‘(a) “candidate” means a person who has been nominated as a candidate at any election;’.

10. The amendments made by sections 6, 7 and 8 of this Act in the principal Act shall also have retrospective operation so as to apply to and in relation to any election held before the commencement of this Act to either House of Parliament or to either House or the House of the Legislature of a State—

(i) in respect of which any election petition may be presented after the commencement of this Act; or

(ii) in respect of which any election petition is pending in any High Court immediately before such commencement; or

(iii) in respect of which any election petition has been decided by any High Court before such commencement but no appeal has been preferred to the Supreme Court against the decision of the High Court before such commencement and the period of limitation for filing such appeal has not expired before such commencement; or

(iv) in respect of which appeal from any order of any High Court made in any election petition under section 98 or section 99 of the principal Act is pending before the Supreme Court immediately before such commencement.

K. K. SUNDARAM,  
*Secy. to the Govt. of India.*